

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARK DAVID McCARTY

V.

**NATHANIEL QUARTERMAN, Director,
Texas Department of Criminal Justice
Correctional Institutions Division**

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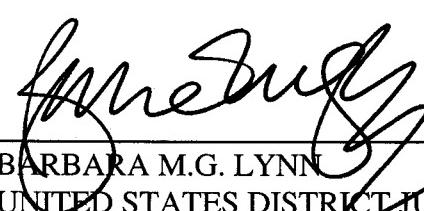
3-06-CV-1713-M

**ORDER ACCEPTING AS MODIFIED THE
FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After making an independent review of the pleadings, files and records in this case, and the Findings, Conclusions and Recommendation of the United States Magistrate Judge, dated November 7, 2006, the Court finds that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court, except that the case will be transferred to the United States Court of Appeals for the Fifth Circuit, not dismissed.

IT IS, THEREFORE, ORDERED that the Findings, Conclusions and Recommendation of the United States Magistrate Judge are accepted as modified.

SO ORDERED this 6 day of December, 2006.



BARBARA M.G. LYNN
UNITED STATES DISTRICT JUDGE